IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 15846 of 2004

Between:

Bandla Bhaskar Rao, s/o Kotaiah,
r/o 1-2-1/1/A, Sarathinagar, Khammam.

..... PETITIONER

AND

1. The Food Corporation of India, rep., by its Senior Regional Manager, Regional Office, HACA Bhavan, Saifabad, Hyderabad.
2. The District Manager, Food Corporation of India, Warangal District Office, Warangal.
3. The District Manager, Food Corporation of India, Khammam District Office, Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of mandamus or any other appropriate writ declaring the order No.VIG.4(7)/2003 dated 9th August, 2004, as illegal, arbitrary and violative of principles of natural justice and consequently set aside the punishment or recovery of Rs.36,782/-

Counsel for the Petitioner: MR.G.VIDYASAGAR

For the Respondents: MR.B.ANJANEYULU, SC FOR FOOD CORPORATIOIN OF INDIA

The Court at the admission stage, made the following:

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 15846 of 2004

ORDER:

The petitioner worked as an Assistant Grade-I (Depot) at Food Storage Depot (FSD) at Kazipet. He was entrusted with loading of food grains into the Railway wagons. A charge memo was issued to him on 31-10-2003, alleging that as incharge of the block No.15, at Food Storage Depot at Kazipet, during the period from January, 2001 to April, 2002, Raw/Boiled Rice/Wheet was dispatched Ex-FSD, Kazipet to various destinations through special trains and that on unloading of the specials at the destinations, full wagon shortages were noticed on the seals in tact wagons and found shortage of 99 bags worth Rs.59,585/- and the petitioner is responsible for the shortage being the incharge of the block No.15. The petitioner submitted a detailed explanation.

2. The grievance of the petitioner is that after receipt of the explanation, the 2nd respondent without conducting any enquiry and without affording any opportunity to the petitioner passed an order on 30-

04-2004, imposing the penalty of recovery of Rs.36,782/- in 18 monthly instalments. Aggrieved by the same, the petitioner approached this Court through W.P.No.11131 of 2004 and it was disposed of by this Court through the order dated 02-07-2004, directing the respondents to pass appropriate orders after giving opportunity to the petitioner. Subsequently, the 2nd respondent issued proceedings dated 09-08-2004, confirming the punishment of the penalty imposed earlier. Aggrieved by the same, the petitioner approached this Court through this writ petition requesting to declare that the order of the 2nd respondent as illegal, arbitrary and in violation of principles of natural justice.

3. The learned Standing Counsel for the respondents submitted that against the impugned order of the 2nd respondent, a statutory appeal has been provided and without exhausting the same, the petitioner has directly approached this Court and the writ petition is not maintainable. It is also stated that the petitioner is at liberty to prefer an appeal within 45 days from the date of receipt of a copy of the order.

4. In the light of the submissions made by the learned Standing Counsel for the respondents, the writ petition cannot be maintained at this stage. However, in the light of the circumstances explained by the petitioner, liberty is granted to the petitioner to prefer an appeal before the authority concerned within the prescribed time and get appropriate orders. Meanwhile, the recovery of amount shall be kept in abeyance.

5. The Writ Petition is accordingly disposed of. No order as to costs.

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September 3,2004

KVR

To

1. The Senior Regional Manager, Food Corporation of India, Regional Office, HACA Bhavan, Saifabad,

   Hyderabad.
2. The District Manager, Food Corporation of India,
   Warangal District Office, Warangal.
3. The District Manager, Food Corporation of India,
   Khammam District Office, Khammam.

4 Two C.D.Copies.